

# EXHIBIT 1

FILED  
09-20-2018  
Clerk of Court  
Shawano Co., WI  
2018CV000202  
Honorable William F.  
Kussel Jr.  
Branch 2

**STATE OF WISCONSIN - CIRCUIT COURT - SHAWANO COUNTY**

JESSICA L. GAUTHIER  
N5438 COUNTY ROAD AA  
SURING, WI 54174

Case No. 18 CV \_\_\_\_\_  
Code No. 30107  
Personal Injury

Plaintiff,

-and-

WISCONSIN DEPARTMENT OF HEALTH SERVICES  
OFFICE OF LEGAL COUNSEL  
1 W. WILSON STREET, RM 651  
MADISON, WI 53707

Subrogated Plaintiff,

-vs-

THE COCA-COLA COMPANY  
1 COCA COLA PLAZA N.W.  
ATLANTA, GA 30313

-and-

WAL-MART STORES, INC.  
702 SW 8<sup>TH</sup> STREET  
BENTONVILLE, AK 72716

Defendants.

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**COMPLAINT**

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NOW COMES the above named plaintiff, Jessica L. Gauthier, by her attorney, Gary S. Cirilli of Cirilli Law Offices, S.C., as and for her cause of action against the above named defendants, alleges and shows to the Court as follows:

1. That the plaintiff, Jessica L. Gauthier, is an adult and currently resides at N5438 County Road AA, Suring, WI 54174.
2. That the subrogated plaintiff, Wisconsin Department of Health Services, upon information and belief, is a Wisconsin organization, duly organized under the laws of the State of Wisconsin, with its principal place of business located at 1 W. Wilson Street, Room 651, P.O. Box 7850,

***Prepared by:***

Atty. Gary S. Cirilli, State Bar #1000633  
Cirilli Law Offices, S.C.  
116 E. Davenport Street, Rhineland WI 54501  
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(715) 369-9137 - facsimile

Madison, WI 53707. That at all times material hereto, said subrogated plaintiff paid or caused to be paid certain healthcare charges on behalf of the plaintiff, Jessica L. Gauthier, and as such, is a subrogated party under the laws of the State of Wisconsin.

3. That the defendant, The Coca-Cola Company, is a corporation doing business under and consistent with the laws of the State of Wisconsin, with its principal place of business located at 1 Coca Cola Plaza N.W., Atlanta, GA 30313.

4. That the defendant, Wal-Mart Stores, Inc., is a corporation doing business pursuant to and consistent with the laws of the State of Wisconsin, with its principal place of business located at 702 SW 8<sup>th</sup> Street, Bentonville, AK 72716.

**FIRST CAUSE OF ACTION OF PLAINTIFF, JESSICA L. GAUTHIER,**  
**AGAINST ALL NAMED DEFENDANTS**

5. That the plaintiff realleges and incorporates herein and by reference, as if more fully set forth in full, the fore-going paragraphs of this complaint.

6. That on or about September 22, 2015 at approximately 10:30 a.m., the plaintiff, Jessica L. Gauthier, was a customer at Wal-Mart Store #2271 located in Shawano County, Shawano, Wisconsin.

7. That as the plaintiff was checking out at register number 13, the plaintiff went back to get another item to purchase. As she was passing in front of the register, she slipped and fell on an accumulation of water that had leaked out of a Coca-Cola cooler that was being utilized by the defendant for the sale of Coca-Cola products.

8. That the plaintiff slipped on the water and fell to the ground within the Wal-Mart Store #2271, causing severe injuries to her physical person.

9. That the defendant, The Coca-Cola Company, owed a duty to maintain and inspect its beverage cooler so that said beverage cooler would operate in a safe manner which would not create a dangerous condition to any person, and particularly to the plaintiff named herein.

10. That the defendant, The Coca-Cola Company, by failing to maintain said beverage cooler in a safe condition, breached the duty owed to the plaintiff named herein.

11. That as a direct and proximate result of the negligence of the defendant, The Coca-Cola Company, the plaintiff has suffered serious personal injuries, including physical injury to her neck, back and arms, the result of which has caused past pain and suffering, past medical expenses and past wage loss, and upon information and belief, said injury may be permanent in nature requiring future medical expense, future loss of earning capacity, future pain and suffering and the loss of the ability to lead a normal, healthy and productive life.

12. That the defendant, The Coca-Cola Company, upon information and belief is a self-insured entity providing liability coverage as part and parcel of its corporate structure.

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13 That the defendant, Wal-Mart Stores, Inc., contracted with the codefendant, The Coca-Cola Company, for the installation of a Coca-Cola beverage cooler to be utilized and placed inside of the Wal-Mart Store #2271 located at 1244 East Green Bay Street, Shawano, WI 54166, and same was in use there on September 22, 2015.

14. That at the time and place of said accident, the defendant, Wal-Mart Stores, Inc., owed a duty to maintain a safe shopping facility and further had a duty to inspect and warn or make safe any dangerous condition that was in existence within the Wal-Mart Store #2271 property.

15. That by failing to warn or make safe the dangerous condition, the defendant, Wal-Mart Stores, Inc., breached the duty owed to the plaintiff, Jessica L. Gauthier, and as such, said breach was the cause of the injuries and damages sustained by the plaintiff and set forth herein.

16. That as direct and proximate result of the negligence of the above named defendant, Wal-Mart Stores, Inc., the plaintiff has suffered serious personal injuries, including physical injury to her neck, back and arms, the result of which has caused past pain and suffering, past medical expenses and past wage loss, and upon information and belief, said injury may be permanent in nature requiring future medical expense, future loss of earning capacity, future pain and suffering and the loss of the ability to lead a normal, healthy and productive life.

**WHEREFORE**, the plaintiff, JESSICA L. GAUTHIER, demands the following relief:

- a) For money damages in an amount to be determined against said named defendants, jointly and separately, to compensate the plaintiff for her personal injuries, disability, past and future medical bills, past and future lost earnings, and past, present and future pain and suffering;
- b) For the plaintiff's costs and disbursements of this action;
- c) For such other relief as the Court deems equitable and just.

Dated this 20<sup>th</sup> day of September, 2018.

**CIRILLI LAW OFFICES, S.C.**  
Attorneys for Plaintiff

Electronically signed by:

Gary S. Cirilli  
WI State Bar No. 1000633  
gary@cirillilaw.com

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**DEMAND FOR JURY TRIAL**

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The plaintiff, Jessica L. Gauthier, by her attorney, Gary S. Cirilli of Cirilli Law Offices, S.C., hereby requests that the above matter be heard before a twelve (12) person jury.

Dated this 20th day of September, 2018.

**CIRILLI LAW OFFICES, S.C.**  
Attorneys for Plaintiff

Electronically signed by:

Gary S. Cirilli  
WI State Bar No. 1000633  
gary@cirillilaw.com

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You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$ 20.00 fee to register as an electronic party.

If you are not represented by an attorney and would like to register as an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: ac4fcd**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 715-526-9347.

Shawano County Circuit Court  
Date: